

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: )  
 )  
KIMBERLY L. SUTHERLAND )  
 ) No. 19-01866  
 ) Chapter 13 (Kane)  
Debtors ) Honorable Janet S. Baer,  
 ) Hearing Date: 5/03/2019 at 9:30 a.m.

**NOTICE OF MOTION**

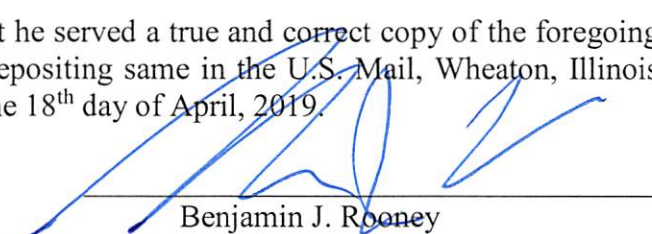
To: See attached Service List.

YOU ARE HEREBY NOTIFIED that on May 3, 2019, at 9:30 a.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Janet S. Baer in room 240 in the Kane County Courthouse, 100 S. Third Street, Geneva, IL 60134, and then and there present for hearing the attached **MOTION FOR RELIEF FROM STAY PURSUANT TO SECTION 362 OF THE BANKRUPTCY CODE** at which time and place you may appear as you see fit.

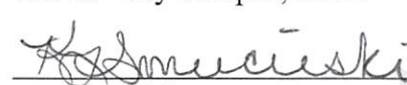
  
Benjamin J. Rooney

**PROOF OF SERVICE**

The undersigned attorney certifies that he served a true and correct copy of the foregoing electronically to all parties eligible and by depositing same in the U.S. Mail, Wheaton, Illinois addressed to the parties appearing above on the 18<sup>th</sup> day of April, 2019.

  
Benjamin J. Rooney

SUBSCRIBED and SWORN to before me  
this 18<sup>th</sup> day of April, 2019.

  
Notary Public  
#6308111

Benjamin J. Rooney  
**KEAY & COSTELLO, P.C.**  
128 South County Farm Road  
Wheaton, Illinois 60187  
(630) 690-6446

KATHERINE L. SMIGINSKI  
Official Seal  
Notary Public - State of Illinois  
My Commission Expires Sep 22, 2019

**SERVICE LIST**

Kimberly L. Sutherland  
209 N Commerce Street  
Aurora, Illinois 60504

John J Lynch  
Lynch Law Offices, P.C.  
1011 Warrenville Road, Suite 150  
Lisle, Illinois 60532  
(By electronic notice through ECF)

Glenn B. Stearns  
801 Warrenville Road, Suite 650  
Lisle, Illinois 60532  
(By electronic notice through ECF)

Patrick S. Layng  
Office of the U.S. Trustee, Region 11  
219 South Dearborn St., Room 873  
Chicago, Illinois 60604  
(By electronic notice through ECF)

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE:	)	
	)	
KIMBERLY L. SUTHERLAND	)	
	)	No. 19-01866
	)	Chapter 13 (Kane)
Debtors	)	Honorable Janet S. Baer,
	)	Hearing Date: 5/03/2019 at 9:30 a.m.

**MOTION FOR RELIEF FROM STAY PURSUANT TO SECTION 362 OF THE  
BANKRUPTCY CODE**

NOW COMES a certain creditor, YORKSHIRE SQUARE TOWNHOME OWNERS ASSOCIATION, by and through its attorneys, KEAY & COSTELLO, P.C., and in support of its Motion for Relief from Stay, states as follows:

1. That the creditor is YORKSHIRE SQUARE TOWNHOME OWNERS ASSOCIATION (hereinafter referred to as (YORKSHIRE SQUARE), an Illinois not-for-profit corporation and homeowners association.

2. That the Debtor, KIMBERLY L. SUTHERLAND (hereinafter referred to as "Debtor") is the owner of residential real estate that is part of YORKSHIRE SQUARE. Specifically, Debtor is the owner of the property located at 209 N. Commerce Street, Aurora, DuPage County, Illinois.

3. That pursuant to YORKSHIRE SQUARE's governing documents, which have been recorded with the Recorder of Deeds of DuPage County, Illinois, a lien attaches to the property of the Debtor to secure unpaid assessments and other obligations arising out of ownership of a unit under the jurisdiction of YORKSHIRE SQUARE.

4. That as owner of a property at YORKSHIRE SQUARE, the Debtor is obligated to pay assessments and other obligations arising out of ownership of their unit to YORKSHIRE SQUARE.

5. That since the filing of Debtor's Chapter 13 petition on January 23, 2019 ("Petition Date"), the Debtor has failed to remain current on her post-petition obligation to pay assessments to YORKSHIRE SQUARE.

6. Accordingly, since the Petition Date and through the filing of this Motion, Debtor has failed to pay the amount of \$794.20 in post-petition assessments and other obligations arising out of ownership of their unit to YORKSHIRE SQUARE. Additionally, YORKSHIRE SQUARE has incurred \$700.00 in attorney's fees and \$181.00 in court costs as a result of Debtor's failure to remain current on their post-petition obligation to the Association. Collection of said attorney's fees and court costs is authorized by the Association's Declaration.

7. Therefore, the total amount due through the filing of this Motion for post-petition assessments and other obligations arising out of ownership of their unit, as well as attorney's fees, and court costs is \$1,675.20.

8. That pursuant to Section 362 of the Bankruptcy Code, YORKSHIRE SQUARE moves this court for entry of an order modifying the automatic stay arising as a result of Debtor's Chapter 13 filing.

9. That YORKSHIRE SQUARE is entitled to relief from the automatic stay so it may initiate collection proceedings against the Debtor for the assessments and other charges that became due and owing after Debtor's Chapter 13 filing.

10. That YORKSHIRE SQUARE is entitled to relief from the automatic stay for the following reasons:

- a. Debtor has made material defaults under the terms of the Declaration;
- b. There is currently a continuing increase in the total indebtedness chargeable against the real estate for payment of assessments and other charges due under the

Declaration which result in YORKSHIRE SQUARE being deprived of adequate protection of its interest in the real estate; and

- c. The subject real estate is not necessary for a successful reorganization of the Debtor.

- 11. That YORKSHIRE SQUARE requests waiver of the 14-day stay provision of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, the Creditor, herein, YORKSHIRE SQUARE, prays this court enter an order modifying the stay permitting YORKSHIRE SQUARE, to initiate collection proceedings of all post-petition association assessments due from the Debtor, KIMBERLY L. SUTHERLAND, as a result of the ownership of the premises described herein, and for any such other and further relief as this court deems just and equitable within the premises.

YORKSHIRE SQUARE TOWNHOME  
OWNERS ASSOCIATION

By: \_\_\_\_\_

One of its attorneys

ARDC: 6308111  
Benjamin J. Rooney  
KEAY & COSTELLO, P.C.  
128 South County Farm Road  
Wheaton, Illinois 60187  
(630) 690-6446